

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

VASCULAR SOLUTIONS, INC.,
Plaintiff-Appellee,

v.

BOSTON SCIENTIFIC CORPORATION,
Defendant-Appellant.

2014-1185

Appeal from the United States District Court for the
District of Minnesota in No. 0:13-cv-01172-JRT-SER,
Judge John R. Tunheim.

ON MOTION

Before RADER, *Chief Judge*, DYK and WALLACH, *Circuit
Judges.*

WALLACH, *Circuit Judge.*

O R D E R

Boston Scientific Corporation moves for a stay, pending appeal, of the preliminary injunction entered by the District Court for the District of Minnesota, effective

January 13, 2014. Vascular Solutions, Inc. opposes the motion.

In deciding whether to grant a stay pending appeal, this court “assesses [the] movant’s chances for success on appeal and weighs the equities as they affect the parties and the public.” *E.I. Dupont de Nemours & Co. v. Phillips Petroleum Co.*, 835 F.2d 277, 278 (Fed. Cir. 1987); *see also Standard Havens Prods. v. Gencor Indus.*, 897 F.2d 511 (Fed. Cir. 1990). To prevail, a movant must establish a strong likelihood of success on the merits or, failing that, must demonstrate that it has a substantial case on the merits and that the harm factors militate in its favor. *Hilton v. Braunskill*, 481 U.S. 770, 778 (1987).

Without prejudicing the ultimate disposition of this case by the merits panel, we conclude based upon the papers submitted that Boston Scientific has not established that it is entitled to a stay of the preliminary injunction during the pendency of this appeal.

Accordingly,

IT IS ORDERED THAT:

The motion for a stay is denied.

FOR THE COURT

/s/ Daniel E. O’Toole
Daniel E. O’Toole
Clerk of Court